

B. REMARKS

By this amendment, Claims 37, 38 and 40 have been canceled and Claims 1, 3, 4, 6, 7, 19, 21, 22, 24, 25 and 39 have been amended. Hence, Claims 1-36, 39 and 41 are pending in this application. The amendments to the claims do not add any new matter to this application and were made to improve the readability and clarity of the claims. All issues raised in the Office Action mailed January 27, 2005 are addressed hereinafter.

REJECTION OF CLAIMS 1-41 UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-41 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The basis for the rejection is that the claims do not sufficiently recite the difference between “usage data” and “value data” recited in the claims.

This rejection is now moot with respect to canceled Claims 37, 38 and 40. The remaining pending claims have been amended to clarify that the value data “specifies, for each resource from the set of one or more resources, a number of service units that each resource is capable of providing per unit time.” This is in contrast to the usage data “that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer.” It is respectfully submitted that the difference between the terms “usage data” and “value data” is now sufficiently clear to satisfy the requirements of 35 U.S.C. § 112, second paragraph. In view of the foregoing amendment, reconsideration and withdrawal of the rejection of Claims 1-36, 39 and 41 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

REJECTION OF CLAIMS 1-41 UNDER 35 U.S.C. § 103(a)

Claims 1-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crooks et al.*, U.S. Patent No. 5,930,773 (hereinafter “*Crooks* `773”) in view of *Crooks et al.*, U.S. Patent No. 5,943,656 (hereinafter “*Crooks* `656”). This rejection is now moot with respect to canceled Claims 37, 38 and 40. It is respectfully submitted that Claims 1-36, 39 and 41 are patentable over *Crooks* `773 and *Crooks* `656 for at least the reasons provided hereinafter.

CLAIM 1

Claim 1 is directed to a method for determining an amount to be billed to a customer for the use of resources. Claim 1, as amended, recites:

“determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources; and in a computer system determining the amount to be billed to the customer based upon the usage data and value data that specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time.”

It is respectfully submitted that Claim 1 is patentable over *Crooks* `773 and *Crooks* `656 because Claim 1 recites one or more limitations that are not taught or suggested by *Crooks* `773 and *Crooks* `656, considered alone or in combination. For example, it is respectfully submitted that the Claim 1 limitation “determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources,” is not taught or suggested by *Crooks* `773 or

Crooks '656. In the Office Action, *Crooks* '773 was relied upon for teaching the prior version of this limitation before it was amended in this reply.

Crooks '773 describes a utility resource management system that receives resource usage information that indicates consumption of resources by customers. The utility resource management system processes the resource usage information and generates computer-viewable data that indicates a customer's consumption of one or more resources. The computer-viewable data may be accessed by customers through interface devices and presented in different formats, for example, in graphical, numerical or tabulated reports.

It is respectfully submitted that *Crooks* '773 does not teach or suggest determining usage data for a set of resources assigned to a customer, where "over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated to the set of one or more resources assigned to the customer from a plurality of resources." The resources described in *Crooks* '773 are utilities, such as electricity, gas, water, etc., and there is no mention of de-allocating existing resources from a set of resources assigned to a customer or allocating additional resources to the set of resources assigned to the customer. *Crooks* '773 describes that customers can view utility usage data in different formats and views, but there is no mention or suggestion of changing the resources in the set of resources assigned to a customer, as recited in Claim 1.

It is therefore respectfully submitted that the Claim 1 limitation "determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more resources assigned to the customer, wherein over time, resources may be de-allocated from the set of one or more resources assigned to the customer and additional resources may be allocated

to the set of one or more resources assigned to the customer from a plurality of resources,” is not taught or suggested by *Crooks* `773.

It is also respectfully submitted that the Claim 1 limitation “in a computer system determining the amount to be billed to the customer based upon the usage data and value data that specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time” is not taught or suggested by *Crooks* `773 or *Crooks* `656. In the Office Action, *Crooks* `656 was relied upon for teaching the prior version of this limitation before it was amended in this reply.

Crooks `656 describes a system for providing computerized consolidation of bills. This includes consolidating individual amounts payable to different billing entities. There is no teaching or suggestion in *Crooks* `656, however, of determining an amount to bill a customer based upon usage of resources by the customer and “value data that specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time,” as recited in Claim 1.

In view of the foregoing, it is respectfully submitted that Claim 1 recites one or more limitations that are not in any way taught or suggested by *Crooks* `773 or *Crooks* `656 and that Claim 1 is therefore patentable over *Crooks* `773 and *Crooks* `656.

CLAIMS 2-18

Claims 2-18 all depend from Claim 1 and include all of the limitations of Claim 1. It is therefore respectfully submitted that Claims 2-18 are patentable over *Crooks* `773 and *Crooks* `656 for at least the reasons set forth herein with respect to Claim 1. Furthermore, it is respectfully submitted that Claims 2-18 recite additional limitations that independently render them patentable over *Crooks* `773 and *Crooks* `656.

CLAIMS 19-36

Claims 19-36 recite limitations similar to Claim 1-18, except in the context of computer-readable media. It is therefore respectfully submitted that Claims 19-36 are patentable over *Crooks* '773 and *Crooks* '656 for at least the reasons set forth herein with respect to Claims 1-18.

CLAIMS 39 AND 41

Claims 39 and 41 recite limitations similar to Claim 1, except in the context of apparatuses. It is therefore respectfully submitted that Claims 39 and 41 are patentable over *Crooks* '773 and *Crooks* '656 for at least the reasons set forth herein with respect to Claim 1.

In view of the foregoing, it is respectfully submitted that Claims 1-41 are patentable over *Crooks* '773 and *Crooks* '656. Accordingly, reconsideration and withdrawal of the rejection of Claims 1-36, 39 and 41 under 35 U.S.C. § 103(a) as being unpatentable over *Crooks* '773 and *Crooks* '656 is respectfully requested.

REJECTION OF CLAIMS 2-18 UNDER 35 U.S.C. § 103(a)

Claims 2-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crooks* '773 in view of *Crooks* '656 in further view of *Aziz et al.*, U.S. Patent No. 6,779,016 (hereinafter "Aziz"). It is respectfully submitted that the *Aziz* reference should not be used in a rejection under 35 U.S.C. § 103(a) because both the *Aziz* reference and the present patent application were commonly owned by Terraspring, Inc. at the time the invention was made. Reconsideration and withdrawal of the rejection of Claims 2-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crooks* '773 in view of *Crooks* '656 in further view of *Aziz* is respectfully requested.

CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested. If there are any fees due with this Reply, please charge them to Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop Amendment**, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on April 27, 2005 by


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